IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 325 OF 1999

The State of Maharashtra ..Appellants

versus

Pundalik Khandu Gave & Ors. ..Respondents

Ms. Usha Kejariwal, AGP for the Appellants - State.

None for the Respondents.

CORAM : D. G. DESHPANDE,J.

DATE : 28TH MARCH,2005

ORAL ORDER :

1. Heard learned AGP for the State. Nobody is present for the Respondents, though served.

2. This appeal is filed by the State challenging the Order of the Joint District Judge, Nashik, dated 18.2.1995. The reference was filed by the claimant in respect of gat No.55 and 56 of Village Deherwadi, Taluka Dindori against the award passed by SLAO. The notification under Section 4 of Land Acquisition Act was dated 29.5.1986. The award came to be passed on 17.2.1990. The SLAO awarded compensation at Rs.13,000/- and Rs.16,000/- per hectare. Being aggrieved the claimants filed

Reference.

3. No evidence was adduced in that reference but the claimants contented by filing pursis Exhibit 9 that evidence and judgment in LAR No. 81 of 1991 should be considered because lands in that matter were from the same village. The notification under Section 4 was of the same date and the purpose of acquisition was same and the award was also same. It is to be noted that the impugned order has been passed in LAR No.1 of 1995 and the court relied upon the evidence and judgment of LAR No. 81 of 1991 and Reference Court observed that in LAR No. 81 of 1991 the claimant was also compensated at the rate of Rs.30,000/- per hectare and therefore following the same ratio claimants in LAR No. 1 of 1995 will be entitled to compensation for gat No.55 at the rate of Rs.26,000/- per hectare. Further for Gat No. 56 Reference Court awarded Rs.32,000/- per hectare without giving any reasons. It appears that the reference Court was influenced by the fact that SLAO has awarded Rs.13,000/- per hectare for gat No.55 and Rs.16,000/- for gat No.56 and therefore on that basis Reference court appears to have made distinction. But every order requires reasonings and merely because SLAO had given different compensation for two gat numbers that was not the criteria to be applied by the Reference Court.

Reference Court should have given as to what were the distinguishing factors and why more compensation was required to be given for gat No.56. Nothing has been done in this regard. Therefore for these reasons Rs.26,000/- for both the gat Nos. 55 and 56 is a proper compensation. Hence, I pass the following order:

ORDER

. Appeal is partly allowed.

. Claimants will be entitled to compensation at Rs.26,000/- per hectare for Gat Nos. 55 and 56 and not at Rs.26,000/- for gat No.55 and Rs.32,000/- for gat No.56. Rest of the order to remain the same.

28.03.2005 (D.G. DESHPANDE, J.)